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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,) No. CR-08-00040 JF
12)
Plaintiff,)
13) NOTICE OF MOTION AND MOTION TO
vs.) DETERMINE MENTAL COMPETENCY
14) [18 U.S.C. § 4241]
DONALD RAY WILLIAMS,)
15)
Defendant.)
16)
17)

18 **INTRODUCTION**

19 Donald Ray Williams is charged with the arson of a building affecting interstate or
20 foreign commerce, in violation of Title 18 U.S.C. § 844(i). In the course of preparing for trial,
21 defense counsel has come to the conclusion that Mr. Williams may presently be suffering from a
22 mental disease or defect that renders him incompetent to stand trial. Accordingly, the defense
23 respectfully requests that the Court order a competency examination and report, in anticipation of
24 a mental competency hearing, as provided for under 18 U.S.C. § 4241.

25 **ARGUMENT**

26 Section 4241 provides that, “[a]t any time after the commencement of a prosecution for

1 an offense and prior to the sentencing of the defendant, . . . the defendant or the attorney for the
2 Government may file a motion for a hearing to determine the mental competency of the
3 defendant.” 18 U.S.C. § 4241(a). The motion for a competency hearing is to be granted “if there
4 is reasonable cause to believe that the defendant may presently be suffering from a mental
5 disease or defect rendering him mentally incompetent to the extent that he is unable to
6 understand the nature and consequences of the proceedings against him or to assist properly in
7 his defense.” Id. Section 4241 authorizes the Court to order a psychiatric examination and
8 report prior to the hearing. See 18 U.S.C. § 4241(b).

9 In this case, defense counsel’s personal observations of and interactions with Mr.
10 Williams, as well as observations from other members of the defense team, have caused defense
11 counsel to believe that Mr. Williams may currently suffer from a mental disease or defect that
12 renders him incompetent to understand the proceedings and to assist in his own defense. See
13 Declaration of Counsel in Support of Motion to Determine Mental Competency at ¶ 3.

14 Although § 4241 is silent concerning whether the examination should be conducted
15 locally or at a Bureau of Prisons medical facility, the defense respectfully submits that it would
16 be preferable in this case to have the examination conducted locally. A local examination would
17 be less disruptive to Mr. Williams, and to his relationship with defense counsel. A local
18 examination would also preserve judicial resources. It would be completed more quickly and at
19 less expense. In addition, in the event that Mr. Williams is found to be competent, the case will
20 be able to proceed without the delay involved in having Mr. Williams transferred back from an
21 out-of-state facility.

22 Section 4241 is also silent concerning which party shall bear the costs of a competency
23 examination. Under the CJA Guidelines, however, the costs of a § 4241 examination are paid by
24 the government, regardless of which party requests the examination. See Criminal Justice Act
25 Attorney Manual, Exh. M; see also Order re Payment for Competency Evaluation, *United States*
26 *v. Alejandro Navarro-Valenzuela*, No. CR 06-771 RMW (May 9, 2007), attached hereto as

1 Exhibit A.

2 **CONCLUSION**

3 For the reasons set forth above and in the attached declaration of counsel, it is respectfully
4 request that this Court order a mental competency examination and report pursuant to 18 U.S.C.
5 § 4241. It is further requested that the Court order that the examination be conducted locally, and
6 that the costs of the examination be paid by the government.

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8 Dated: July 25, 2008

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10 Respectfully submitted,

11 BARRY J. PORTMAN
12 Federal Public Defender

13 /S/
14 MANUEL U. ARAUJO
15 Assistant Federal Public Defender
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